

Application Serial No. 10/685,073  
Amendment & Response to Office Action dated February 23, 2006

MSE-2671

**REMARKS**

Claims 1-18 and 26-32 are pending in the application. Claims 1,3, 5, 6, 9, 10, 12, 14 and 26-29 have been amended. Support may be found, for example, at FIGs. 1-4 and page 7, line 25-28 of the patent application. Claims 3-9, 12, 17 and 18 have been allowed if amended to their independent form. No new matter has been added. Reconsideration of the claims based on the below comments is respectfully requested.

**In The Specification**

The Applicants previously claimed priority back to Application No. 60/418,422, which was filed on October 15, 2002 in the declaration. See Exhibit 1. The declaration was submitted within the time period set forth in 37 C.F.R. 1.78(a). The Patent Office acknowledged priority to Application No. 60/418,422 in its filing receipt. See Exhibit 2. The Applicants inadvertently did not include the claimed priority in the first sentence of the specification. The Applicants have added a Cross-Reference to Related Application section that includes the claimed priority to Application No. 60/418,422 as the first sentence of the specification. Pursuant to MPEP 201.11, since the declaration was timely filed and the information concerning the benefit claim was recognized by the Patent Office as shown by its inclusion on the first filing receipt, a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Therefore, the Applicants respectfully request that the Cross-Reference to Related Application section be added to the present application.

**Claim Objections**

To obviate the objection, claims 1 and 14 have been amended to recite "the pinion being rotated in response to the movement of the rack". One non-limiting example of the same is disclosed in FIGs. 1-4 and col. 7, lines 25-26 of the patent application ("[a] drive spring 28 applies force to the frame 12 for moving the rack 14, wherein the pinion 16 is rotated counterclockwise (clockwise in Figs. 3 and 4)...") Therefore, the claim objection should be withdrawn.

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**35 U.S.C. § 112 Rejection/Drawing Objection**

Claim 9 was rejected as being indefinite because the first guide pin being parallelogram-shaped is incorrect in relation to the disclosure. The drawings were objected to because a parallelogram-shaped first guide pin was not shown. Dependent claim 9 has been amended to recite that the first guide pin is cylindrical shaped. This is supported in, for example, FIG. 4 and corresponding description with first guide pin 60. No new matter has been entered. The Applicants respectfully request that this claim rejection be withdrawn.

**Allowed Claims**

Claims 3-9, 12, 17 and 18 have been allowed if rewritten in independent form including the base claim and any intervening claims. Dependent claim 3 has been rewritten as an independent claim and includes the limitations of original claim 1 and, thus, claim 3 is allowable. Claims 4-9, which depend directly or indirectly on independent claim 3, are also allowable. Dependent claim 12 has been rewritten as an independent claim and includes the limitations of original claim 1 and, thus, claim 12 is allowable. Dependent claim 17 has been rewritten as an independent claim and includes the limitations of original claim 14 and, thus, claim 17 is allowable. Claim 18, which depends directly on independent claim 17, is also allowable.

**35 U.S.C § 102(a)**

Independent claims 1 and 14 have been amended to recite that the rack is a gear rack. Independent claim 26 has been amended to specifically recite a gear rack and pinion means.

**Independent Claim 1**

The applied reference of U.S. Patent No. 6,231,531 to Lum et al. ("Lum") does not disclose, teach or suggest several limitations in independent claim 1. Specifically, Lum does not disclose, teach or suggest, *inter alia*, (a) "a parallelogram-shaped gear rack" and (b) "a pinion rotatably supported in the gear rack, wherein the pinion is rotated in response to the movement of the gear rack" as recited in claim 1. Rather, Lum discloses a roller unit 22 that travels in a module 20 that includes a support member 32 that is shown as a flat surface. Thus, in summary, Lum does not disclose, teach or suggest the recited rack and pinion of claim 1.

Therefore, claim 1 should not be anticipated by or rendered obvious over Lum and, thus, should be allowable. Claims 2, 10, 11 and 13, which depend either directly or indirectly on claim 1, should also

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not be anticipated by or rendered obvious over Lum and, thus, should be allowable for at least the same reasons.

Independent claim 14

Claim 14 recites, *inter alia*, (a) “a frame comprising a parallelogram-shape gear rack” and (b) “a pinion rotatably mounted to interface the gear rack.” For the same reasons as discussed above, Lum does not disclose, teach or suggest the recited rack and pinion of claim 14. Therefore, claim 14 should not be anticipated by or rendered obvious over Lum and, thus, should be allowable. Claims 15 and 16, which depend either directly or indirectly on claim 14, should also not be anticipated by or rendered obvious over Lum and, thus, should be allowable for at least the same reasons.

Independent claim 26

Claim 26 recites, *inter alia*, “gear rack and pinion means for moving the frame along a predetermined path from a cocked position to a fired position, the gear rack and pinion means comprising one or more rack segments fixed relative to the frame, and a pinion interfacing the one or more rack segments”. For the same reasons as discussed above, Lum does not disclose, teach or suggest the recited rack and pinion means of claim 26. Therefore, claim 26 should not be anticipated by or rendered obvious over Lum and, thus, should be allowable. Claims 27-32, which depend either directly or indirectly on claim 26, should also not be anticipated by or rendered obvious over Lum and, thus, should be allowable for at least the same reasons.

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**Conclusion**

The Applicants submit that the claims are in a condition for allowance and action toward that end is earnestly solicited. The Applicants do not believe that any fees are due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Bayer Healthcare LLC Deposit Account No. 13-3375(MSE-#2671).

Respectfully submitted,

April 12, 2006

Date



Alice A. Brewer

Reg. No. 32,888

1884 Miles Avenue

P.O. Box 40

Elkhart, Indiana 46515-0040

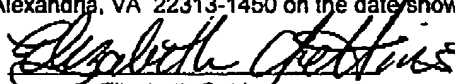
(574) 264-8394

ATTORNEY FOR APPLICANTS

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April 12, 2006

  
Elizabeth Gettins